

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 138

92ND GENERAL ASSEMBLY

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Reported from the Committee on Corrections and State Institutions April 10, 2003, with recommendation that the House Committee Substitute for House Bill No. 138 Do Pass.

Taken up for Perfection April 22, 2003. House Committee Substitute for House Bill No. 138 ordered Perfected and printed.

STEPHEN S. DAVIS, Chief Clerk

0621L.05P

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## AN ACT

To repeal sections 217.305 and 217.380, RSMo, and to enact in lieu thereof four new sections relating to the department of corrections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 217.305 and 217.380, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 217.105, 217.305, 217.343, and 217.380, to read as follows:

**217.105. 1. As used in this section, the following terms mean:**

**(1) "Director", the director of the Missouri department of corrections or his or her designated agent or representative;**

**(2) "Corrections officer", a corrections officer of the state or any political subdivision of the state;**

**(3) "COCC", corrections officer certification commission.**

**2. There is hereby established within the department of corrections a "Corrections Officer Certification Commission" which shall be composed of nine members nominated by the director and appointed by the governor with the advice and consent of the senate:**

**(1) Three members shall be department of corrections officers below the rank of lieutenant; of which, at least two will be members of a statewide association of corrections officers with more than one thousand members;**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

13           **(2) Three members shall be corrections officers or supervisors above the rank of**  
14 **sergeant; two of which must be the rank of lieutenant or captain. Of these three, at least**  
15 **one will be a member of a statewide association of corrections officers with more than one**  
16 **thousand members;**

17           **(3) Two members shall be county sheriffs, at least one of whom shall be from a**  
18 **third class county; and**

19           **(4) One member shall represent the general public.**

20           **3. Each member shall be at the time of appointment a citizen of the United States**  
21 **and a resident of this state for a period of at least one year.**

22           **4. The original members of the commission shall be appointed as follows:**

23           **(1) Three for terms of one year;**

24           **(2) Three for terms of two years; and**

25           **(3) Three for terms of three years.**

26

27 **Thereafter, all terms of membership on the commission shall be for three years or until a**  
28 **successor is appointed.**

29           **5. The director may remove any member of the commission for misconduct or**  
30 **neglect of office. Any member of the commission may be removed for cause by the director**  
31 **but such member shall first be presented with a written statement of the reasons thereof.**

32           **6. Any vacancy in the membership of the commission shall be filled by appointment**  
33 **for the unexpired term.**

34           **7. Annually the director shall appoint one of the members as chairperson. The**  
35 **commission shall meet to perform its duties at least once each year as determined by the**  
36 **director or a majority of the members. A majority of the members of the commission shall**  
37 **constitute a quorum.**

38           **8. No member of the commission shall receive any compensation for the**  
39 **performance of official duties but the members shall be reimbursed for their necessary**  
40 **expenses.**

41           **9. The commission may:**

42           **(1) Cause a job task analysis to be made of the jobs of corrections officers pursuant**  
43 **to this chapter; jailers pursuant to chapter 221, RSMo; jailers in charter counties and**  
44 **private jail custody staff;**

45           **(2) Make recommendations to the department of corrections, the legislature, or the**  
46 **governor concerning the qualifications, training, testing, and certification of corrections**  
47 **officers, jailers and private jail custody staff;**

48           **(3) Recommend qualifications and training standards for corrections officers**

49 pursuant to this chapter, jailers pursuant to chapter 221, RSMo, and jailers in charter  
50 counties.

51 10. The director may establish various classes of corrections officers certification.

52 11. The name, certification status, and employing corrections agency of any of the  
53 applicants or individuals certified pursuant to this chapter shall be open record. All other  
54 records retained by the director pertaining to any applicant or certified officer shall be  
55 confidential and shall not be disclosed to the public or any member of the public, except  
56 with the written consent of the person or entity whose records are involved, provided,  
57 however, that the director may disclose such information in the course of interstate  
58 exchange of information, during the course of litigation involving the director or to other  
59 state agencies. No closed record conveyed to the director pursuant to this chapter shall lose  
60 its status as a closed record solely because it is retained by the director. Nothing in this  
61 chapter shall be used to compel the director to disclose any record subject to attorney-  
62 client privilege or work-product privilege.

217.305. 1. The sheriff or other officer charged with the delivery of persons committed  
2 to the department for confinement in a correctional center shall deliver the person to the  
3 reception and diagnostic center designated by the director at times and dates as designated by the  
4 director and shall receive a certificate of delivery of the offender from the center.

5 2. Appropriate information relating to the offender shall be provided to the department  
6 in a written or electronic format, at or before the time the offender is delivered to the department,  
7 including, but not limited to:

8 (1) A **certified** copy of the sentence [received] from the clerk of the sentencing court[.  
9 If provided in written form, this document shall be certified by the court] **on the standardized**  
10 **form developed by the office of state courts administrator. Such form shall include**  
11 **specifics on any status violated, court-ordered probation not supervised by the department,**  
12 **the offense cycle number and any court-ordered restitution owed to the victim;**

13 (2) [All other judgment, sentencing and commitment orders of the court, or such  
14 documents as authorized by the prosecuting attorney or circuit attorney or required by the  
15 department;

16 (3) Further] **Available information provided in writing by the prosecutor** regarding  
17 the offender's age, crime for which sentenced [and], **probable cause statement**, circumstances  
18 surrounding the crime and sentence, **names, telephone numbers, and last know address of**  
19 **victims, victim impact statements, and** personal history, which may include facts related to  
20 [his] **the offender's** home environment, **or work habits, gang affiliations, if any,** and previous  
21 convictions and commitments. Such information shall be prepared by the prosecuting attorney  
22 of the county or circuit attorney of any city not within a county who was charged with the

23 offender's prosecution;

24 **(3) Information provided by the sheriff or other officer charged with the delivery**  
25 **of persons committed to the department regarding the offender's physical and mental**  
26 **health while in jail. All records on medication, care, and treatment provided to the**  
27 **offender while in jail shall be provided to the department prior to or upon delivery of the**  
28 **offender. If the offender has had no physical or mental health care or medications while**  
29 **in jail, the sheriff or other officer shall certify that no physical or mental health care or**  
30 **medication records are available. The sheriff shall provide certification of all applicable**  
31 **jail-time credit.**

32 **3. The department may refuse to accept any offender who is delivered for**  
33 **confinement without all required information.**

**217.343. Offenders who are younger than seventeen years of age and have been**  
2 **adjudicated as an adult shall be emancipated for the purpose of decision-making and**  
3 **participation in all department programs and services, including but not limited to,**  
4 **medical care, mental health care, treatment programs, educational programs, work**  
5 **assignments, and rehabilitative programs.**

217.380. 1. When an offender is found guilty of a violation of a correctional facility rule  
2 or convicted of a felony or misdemeanor, a record of such violation or conviction shall be  
3 recorded in the offender's file and in a central record. The record shall clearly state the offense,  
4 the reporting officer's name, when and where the violation or offense was committed and the  
5 action taken by any disciplinary body or other personnel of the department.

6 2. An offender who has violated any published rule or regulation of the division or  
7 correctional facility relating to the conduct of offenders may, after proper hearing and upon order  
8 of the chief administrative officer or his **or her** designee of the correctional facility, be confined  
9 in a disciplinary segregation unit for a period not to exceed thirty days. Disciplinary segregation  
10 of more than ten days may only be given for serious conduct violations as defined by rule or  
11 regulation of the division.

12 **3. Violation hearings under the provision of subsection 2 of this section are not**  
13 **contested cases under the provisions of chapter 536, RSMo. Violation hearings under the**  
14 **provisions of subsection 2 of this section are not subject to the rules of evidence. The**  
15 **department may promulgate rules for violation hearings under the authority of subsection**  
16 **2 of section 217.040. The conduct of and order from a violation hearing under the**  
17 **provisions of subsection 2 are final and unappealable.**